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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

ALLEGIANCE TELCOM, INC., *et al.*

Debtors.

Chapter 11

Case No. 03-13057 (RDD)
(Jointly Administered)

NOTICE OF MOTION OF ARTHUR H. FIERMAN, JR. FOR AN ORDER, PURSUANT TO 11 U.S.C. § 362(d), (I) GRANTING RELIEF FROM THE AUTOMATIC STAY TO PERMIT THE COMMENCEMENT AND PROSECUTION, THROUGH JUDGMENT, OF AN EMPLOYMENT DISCRIMINATION ACTION AGAINST DEBTOR ALLEGIANCE TELECOM, INC., AND THE ENFORCEMENT OF ANY JUDGMENT ENTERED IN SUCH EMPLOYMENT DISCRIMINATION ACTION TO THE EXTENT SUCH JUDGMENT IS COVERED BY THE DEBTORS' INSURANCE POLICIES; AND (II) FOR OTHER RELATED RELIEF

PLEASE TAKE NOTICE that, upon the verified motion (the “**Motion**”) of Arthur H. Fierman, Jr. (“Fierman”), seeking the entry of an order, pursuant to 11 U.S.C. § 362(d), (a) granting Fierman relief from the automatic stay to permit him to (i) commence and prosecute through

judgment, in the state or federal courts of Florida, or any other court of competent jurisdiction, an employment discrimination action (the “**Discrimination Action**”) against chapter 11 debtor and debtor-in-possession herein, Allegiance Telecom, Inc. (“**ATI**”), (ii) execute on any judgment entered in the Discrimination Action to the extent such judgment is covered by one or more of ATI’s insurance policies (collectively, the “**Insurance Policies**”) and (iii) amend his Proof of Claim filed herein to reflect the amount of any judgment, plus fees, costs and interest, entered in the Discrimination Action, less all amounts paid under the Insurance Policies; and (b) authorizing and directing the insurers under the Insurance Policies to pay the proceeds thereof to Fierman to satisfy any judgment obtained by him against ATI in the Discrimination Action, Fierman will move before the Honorable Robert D. Drain, United States Bankruptcy Judge, in Courtroom 610 of the United States Bankruptcy Court for the Southern District of New York (the “**Court**”), One Bowling Green, New York, New York, on March 25, 2004 at 10:00 a.m. (New York Time), or as soon thereafter as counsel may be heard, for entry of an Order granting the Motion.

PLEASE TAKE FURTHER NOTICE, that any responses or objections to the relief sought by Fierman by way of the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (General Order M-242 and the User's Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), by registered users of the Bankruptcy Court's case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect or any other Windows-based word processing format (with a hard-copy delivered directly to Chambers), and shall be served in accordance with General Order M-242, upon (i) Reed Smith, LLP , One Riverfront Plaza, First Floor, Newark, New Jersey 07102-5401 (Attn: Deborah A. Reperowitz, Esq. and Charles N. Panzer, Esq.), the attorneys for Arthur H. Fierman, Jr.; (ii) Kirkland & Ellis LLP, 153 East 53rd

Street, New York, New York 10022 (Attn: Jonathan S. Henes, Esq.), the attorneys for ATI; (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st floor, New York, New York 10004 (Attn: Pamela J. Lustrin, Esq.); (iv) Akin Gump Strauss Hauer Feld LLP, 590 Madison Avenue, New York, New York 10022 (Attn: Ira S. Dizingoff, Esq.), the attorneys for the statutory committee of unsecured creditors appointed in these chapter 11 cases; and (viii) those parties entitled to notice pursuant to this Court's order dated May 15, 2003, and subsequently modified on May 16, 2003, establishing notice procedures in these chapter 11 cases, so as to be received no later than March 22, 2004 at 4:00 p.m. (New York Time).

Dated: New York, New York
March 11, 2004

REED SMITH LLP
Attorneys for Arthur H. Fierman, Jr.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

ALLEGIANCE TELCOM, INC., *et al.*

Debtors.

Chapter 11

Case No. 03-13057 (RDD)
(Jointly Administered)

VERIFIED MOTION OF ARTHUR H. FIERMAN, JR. FOR AN ORDER, PURSUANT TO 11 U.S.C. § 362(d), (I) GRANTING RELIEF FROM THE AUTOMATIC STAY TO PERMIT THE COMMENCEMENT AND PROSECUTION, THROUGH JUDGMENT, OF AN EMPLOYMENT DISCRIMINATION ACTION AGAINST DEBTOR ALLEGIANCE TELECOM, INC., AND THE ENFORCEMENT OF ANY JUDGMENT ENTERED IN SUCH EMPLOYMENT DISCRIMINATION ACTION TO THE EXTENT SUCH JUDGMENT IS COVERED BY THE DEBTORS' INSURANCE POLICIES; AND (II) FOR OTHER RELATED RELIEF, AND INCORPORATED MEMORANDUM OF LAW

TO: THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

Arthur H. Fierman, Jr., (**“Fierman”**), by and through his counsel, Reed Smith, LLP, hereby files this verified motion, and incorporated memorandum of law (the **“Motion”**) seeking the entry of an order, pursuant to 11 U.S.C. § 362(d), (a) granting Fierman relief from the automatic stay to permit him to (i) commence and prosecute through judgment, in the state or federal courts of Florida, or any other court of competent jurisdiction, an employment discrimination action (the **“Discrimination Action”**) against chapter 11 debtor and debtor-in-possession herein, Allegiance Telecom, Inc. (**“ATI”** or the **“Debtor”**), (ii) execute on any judgment entered in the Discrimination Action to the extent such judgment is covered by one or more of ATI’s insurance policies (collectively, the **“Insurance Policies”**) and (iii) amend his Proof of Claim filed herein to reflect the amount of any judgment, plus fees, costs and interest, entered in the Discrimination Action, less all amounts paid under the Insurance Policies; and (b) authorizing and directing the insurers under the Insurance Policies (collectively, the **“Insurers”**) to pay the proceeds thereof to Fierman to satisfy any judgment obtained by him against ATI in the Discrimination Action, and in support thereof, states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND¹

2. On May 14, 2003 (the “**Petition Date**”), the Debtor and certain affiliates (collectively, the “**Debtors**”) each commenced with this Court a voluntary case under chapter 11 of title 11, of the United States Bankruptcy Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. Between February 5, 2001 and October, 2002, Fierman was employed by ATI as an Account Executive and as a Sales Manager. Fierman began his employment with ATI as an Account Executive on February 5, 2001. On December 26, 2001, Fierman was promoted to Sales Manager and held that position until he was terminated in October, 2002. Exhibit A, *Fierman Aff.*, ¶2.

4. In May 2002, Fierman’s then supervisor, a male, resigned and was replaced by a female supervisor (the “**Supervisor**”). Exhibit A, *Fierman Aff.*, ¶3. Shortly after the Supervisor was hired, her statements and conduct reflected discriminatory tendencies against men. Specifically:

- a. The Supervisor repeatedly stated that she believed that females are better managers than males, and that ATI needed more female employees;
- b. Fierman’s duties as Sales Manager included hiring new Account Executives. The Supervisor instructed Fierman to interview and hire more females; and
- c. The Supervisor printed and distributed an article that discussed how women made better managers than men.

See Exhibit A, *Fierman Aff.*, ¶¶3-5.

¹ The facts set forth herein are set forth in greater detail in the Affidavit of Arthur H. Fierman, Jr. dated April 15, 2003 (the “**Fierman Aff.**”), which is annexed to Fierman’s Proof of Claim attached hereto as Exhibit A.

5. At the time the Supervisor became Fierman's supervisor, Fierman was one of three Sales Managers under her supervision. Exhibit A, Fierman Aff., ¶¶7. The other two Sales Managers were women. *Ibid.* In or about August 2002, the Supervisor disbanded one of the sales teams headed by a female Sales Manager, but she gave that Sales Manager the opportunity to remain employed with ATI as an Account Executive. *Ibid.*

6. Beginning in June 2002, The Supervisor began to threaten Fierman with termination for his sales team's alleged failure to meet the minimum sales quota of 400 phone lines per month. Exhibit A, Fierman Aff., ¶8. On June 28, 2002, the Supervisor advised Fierman in writing that he had failed to sell the minimum acceptable number of phone lines. *Ibid.* At that time, the sales teams of the other two Sales Managers, who were women, had sold fewer phone lines than Fierman's sales team. *Ibid.* In fact, up to that point, Fierman was the only ATI Sales Manager whose sales team had achieved the 400 phone line sales goal in 2002. Fierman's sales team sold 401 phone lines in January and 501 lines in April. *Ibid.*

7. On August 2, 2002 and August 12, 2002, Fierman received from the Supervisor "final written warnings" for his sales team's failure to sell 400 phone lines per month. By the end of August 2002, however, Fierman's sales team had sold 435 phone lines. Exhibit A, Fierman Aff., ¶9

8. In September 2002, Fierman's team sold 370 phone lines, and the other Sales Manager's team sold 379 phone lines. Exhibit A, Fierman Aff., ¶10. The Supervisor fired Fierman in early October 2002, but she did not fire the other Sales Manager, who is female. *Ibid.* Also, the Supervisor did not give Fierman the option of remaining with ATI as an Account Executive or another position, as she had done with the other terminated Sales Manager, who is female. *Ibid.* After Fierman was terminated, he was replaced by a woman. *Id.*, ¶11.

9. While Fierman was employed as a Sales Manager with ATI, his sales team sold more total telephone lines than any other team in the office. Fierman's sales team was the top producing team five out of nine months. Exhibit A, *Fierman Aff.*, ¶12. In short, Fierman outperformed his female counterparts, yet he was terminated for supposed poor performance and they were not. *Ibid.*

10. As a result of the circumstances surrounding his termination by ATI, on April 15, 2003, Fierman filed with the U.S. Equal Employment Opportunity Commission (the "EEOC") a Charge of Discrimination under Title VII and the Florida Civil Rights Act, Chapter 760, Florida Statutes (the "Civil Rights Charge" and the "Florida Civil Rights Act", respectively).

11. On September 8, 2003, the EEOC entered a Dismissal and Notice of Rights with respect to the Civil Rights Charge (the "Dismissal and Notice"), which closed the EEOC's file as to the Civil Rights Charge and notified Fierman of his right to bring suit against ATI on the employment discrimination claim underlying the Civil Rights Charge (the "Employment Discrimination Claim") in federal or state court.

12. On November 20, 2003, Fierman filed a Proof of Claim in the instant bankruptcy case (the "Proof of Claim") based on the Employment Discrimination Claim. A copy of the Proof of Claim, which in turn attaches copies of the Civil Rights Charge, the Dismissal and Notice and the Fierman Affidavit, is attached hereto as Exhibit A.

13. Upon information and belief, ATI is insured against the Employment Discrimination Claim under one or more of the Insurance Policies.

RELIEF REQUESTED

14. By this Motion, Fierman seeks the entry of an order granting him relief from the automatic stay pursuant to section 362(d) of the Bankruptcy Code, to the extent such relief is necessary, to prosecute the Discrimination Action against ATI, and to pursue collection of a

judgment, plus fees, costs and interest, from the insurance carriers which issued the Insurance Policies to ATI.

BASIS FOR RELIEF

15. Section 362(d) of the Bankruptcy Code contains several bases upon which relief from the automatic stay shall be granted.² Under section 362(d)(1), stay relief shall be granted upon a movant's demonstration of "cause." 11 U.S.C. § 362(d)(1). Alternatively, under section 362(d)(2), lifting of the automatic stay shall be granted if the moving party establishes that: (a) "the debtor does not have equity in the property"; and (b) "such property is not necessary to an effective reorganization." *Id.*

16. It is universally accepted that "Sections 362(d)(1) and 362(d)(2) are disjunctive; the Court must lift the stay if the movant prevails under either of the two grounds." *In re Kaplan Breslaw Ash*, 264 B.R. 309, 321 (Bankr. S.D.N.Y. 2001) (emphasis added); *see also In re Indian Palms Assocs.*, 61 F.3d 197, 208 (3d Cir. 1995) (relief is "mandatory" where requirements of § 362(d) are satisfied). In fact, "Congress has provided that 'the Court shall grant relief from the stay' (emphasis supplied) for any of the reasons stated in the [two] subsections." *In re Zeoli*, 249 B.R. 61, 63 (Bankr. S.D.N.Y. 2000); *see also In re Elmira Litho, Inc.*, 174 B.R. 892, 900 (Bankr. S.D.N.Y. 1994); *In re Touloumis*, 170 B.R. 825, 827 (Bankr.

² Section 362(d) provides, in relevant part:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under section (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay-

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if-

(A) the debtor does not have equity in such property; and

(B) such property is not necessary to an effective reorganization.

11 U.S.C. § 362(d) (emphasis added).

S.D.N.Y. 1994); *In re de Kleinman*, 156 B.R. 131, 136 (Bankr. S.D.N.Y. 1993); *In re Diplomat Electronics Corp.*, 82 B.R. 688, 692 (Bankr. S.D.N.Y. 1988).

17. Section 362(d)(1) provides for lifting of the automatic stay “for cause,” and the movant bears the initial burden to demonstrate that “cause exists.” 11 U.S.C. §§ 362(d)(1) and 362(g). As explained by the various bankruptcy courts, upon a motion to lift or modify the automatic stay, the burden of proof is a shifting one, with the movant having the burden of making an initial showing of ‘cause,’ and the debtor having the ultimate burden of proof on all issues other than the debtor’s equity in property. *In re Elmira*, 174 B.R. at 892; *see also In re Telegroup, Inc.*, 237 B.R. 87, 91 (Bankr. D.N.J. 1999).

A. Cause Exists to Lift the Stay Pursuant to the Relevant *Sonnax* Factors.

18. The existence of “cause” for the purposes of Section 362(d)(1) is committed to the discretion of the bankruptcy judge. *See Sonnax Industries, Inc. v. Tri Component Products Corp. (In re Sonnax Industries, Inc.)*, 907 F.2d 1280, 1286 (2d Cir. 1990). “Courts of the Second Circuit exercise their discretion in accordance with factors articulated by the Second Circuit Court of Appeals in *Sonnax*, a decision of particular relevance to requests for relief from the stay to proceed with plenary litigation.” *Adelphia Communications Corp. v. Associated Electric & Gas Insurance Services, Ltd., (In re Adelphia Communications Corp.)*, 285 B.R. 580, 593 (Bankr. S.D.N.Y. 2002).

19. In *Sonnax*, the Second Circuit Court of Appeals, drawing on the analysis set forth in *In re Curtis*, 40 B.R. 795 (Bankr. D. Utah 1984), identified twelve factors to be weighed in deciding whether litigation should be permitted to continue in another forum. The factors are: (1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary

expertise has been established to hear the cause of action; (5) whether the debtor's insurer has assumed full responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interests of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant's success in the other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests of judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) the impact of the stay on the parties and the balance of harms. *Sonnax*, 907 F.2d at 1286.

20. In making its determination, a court should consider only those *Sonnax* factors which are relevant and assign the appropriate weight to each factor considered. *In re Burger Boys*, 183 B.R. 682, 688 (S.D.N.Y. 1994); *see also Mazzeo v. Lenhart (In re Mezzeo)*, 167 F.3d 139, 143 (2d Cir. 1999)(all twelve factors will not be relevant in every case).

21. In this case, all of the relevant *Sonnax* factors militate in favor of granting Fierman the relief requested herein.

22. First, allowing the Discrimination Action to proceed will afford "complete resolution" of a complex, specialized legal issue involving Fierman's Discrimination Claim against ATI.

23. Second, granting the relief requested herein will not interfere with the reorganization proceeding before this Court. In fact, ATI has sold substantially all of its assets, so it is apparent that ATI is liquidating, as opposed to reorganizing its business. Further, the factual issues implicated in the Discrimination Action are limited in scope, and appear to involve only Fierman, Fierman's Supervisor at ATI, and perhaps one or more current or former employees of ATI that are or were under the Supervisor's supervision in ATI's Sales

Department. Thus, there will be no interference with ATI's overall "business", or with ATI's "reorganization," since ATI has sold substantially all of its assets, as opposed to reorganizing its business, there is a narrow universe of factual issues and witnesses implicated in the Discrimination Action, and there is a limited number of ATI personnel (or more likely, ex-ATI personnel) who may be required to provide testimony.

24. Third, the Discrimination Action does not involve ATI as a fiduciary.

25. Fourth, it is anticipated that the Insurors will assume full responsibility for defending the Discrimination Action, as well as payment of any judgment obtained therein.

26. Fifth, the Discrimination Action primarily involves third parties as to the issues of responsibility for ATI's defense and the ultimate issue of satisfaction of any judgment obtained by Fierman. As set forth above, it is anticipated that the Insurors will defend ATI in the Discrimination Action, and in the event Fierman obtains a judgment against ATI, such judgment will be paid, at least in part, by the Insurors and not ATI.

27. Sixth, litigation of the Discrimination Action in the Florida courts will not prejudice the interests of other creditors, and in fact, permitting Fierman to prosecute the Discrimination Action likely will benefit other creditors. Specifically, Fierman believes that the Insurors, not ATI, will pay any judgment obtained by Fierman. Thus, Fierman's claim against ATI will be satisfied with non-estate assets. Accordingly, ATI and its creditors would directly benefit from the Court permitting Fierman to liquidate his Discrimination Claim in a non-bankruptcy forum, and to obtain payment from the Insurors on any judgment thereon, because the amount of Fierman's Claim against ATI will be reduced, dollar-for-dollar, by every dollar paid to Fierman by the Insurors. Indeed, it is hoped that Fierman's claim against ATI will be satisfied in full by the Insurors.

28. Seventh, the award and subsequent judgment which Mr. Fierman seeks will not be subject to equitable subordination.

29. Eighth, allowing Fierman to liquidate the Employment Discrimination Claim in the Florida courts would further the interests of judicial economy and the expeditious and economical resolution of the Employment Discrimination Claim. The Employment Discrimination Claim is based on the Florida Civil Rights Act. Without doubt, the Florida courts are the logical forum to litigate claims based on Florida state statutes, because of the Florida courts' familiarity with, and experience in presiding over and determining, such matters. Thus, allowing Fierman to litigate his Employment Discrimination Claim in the Florida courts, and thereby relieving this Court of the burden of familiarizing itself with the Florida Civil Rights Act and related bodies of case law and administrative decisions, and presiding over the litigation, would further the interests of judicial economy and the expeditious and economical resolution of the Employment Discrimination Claim.

30. Ninth, granting Fierman the relief requested herein would not adversely impact ATI, yet would benefit Fierman in that it would lead to the most expeditious and efficient liquidation, and hopefully payment, of the Employment Discrimination Claim. Accordingly, the "balance of the hardships" clearly tips in favor of granting the requested relief.

B. Cause Exists to Lift the Stay, Because Fierman Seeks to Pursue an Insured Claim Against the Insurers.

31. In addition to the above factors, it is common to grant relief from the automatic stay when the movant is seeking to pursue claims against a debtor's insurers. *International Business Machines v. Fernstrom Storage and Van Company (In re Fernstrom Storage and Van Company)*, 938 F.2d 731, 737 (7th Cir. 1991) (creditor was entitled to relief from the automatic stay to proceed with action against debtor to obtain declaration of liability that could serve as a predicate for creditor's recovery under the debtor's insurance policies); *In re Miller*, 228 B.R.

203, 206 (Bankr. N.D. Ill. 1999) (cases considering modification of the automatic stay with respect to actions on insured claims recognize the equity of permitting a civil suit to proceed where the bankruptcy estate is in no way harmed); *see also In re Keene Corp.*, 171 B.R. 180, 184 (Bankr. S.D.N.Y. 1994) (where the continuation of the stay deprives the judgment creditor of the opportunity to collect the judgment from a third party and no other sources of collection exist, a court will generally lift the stay to permit the litigation to continue).

32. At this time, Fierman is seeking to obtain payment of any judgment he obtains in the Discrimination Action from the proceeds of the Insurance Policies. Further, ATI has no interest in such proceeds, because, upon information and belief, the proceeds are available only to pay Fierman (and any other similarly situated employment discrimination claimants) in the event Fierman prevails on his employment discrimination claims against the Debtor, as well as ATI's defense counsel. Under no circumstances would the proceeds be available to the Debtor or the Debtor's estate generally.

33. Because at this time Fierman is seeking to collect any recovery against the Debtor in the Discrimination Action only from the available proceeds of the Insurance Policies, and because the Debtor has no interest in such proceeds, the Court should grant Fierman relief from the automatic stay to proceed in a non-bankruptcy forum with his Employment Discrimination Claim.

34. Based on the foregoing, (a) cause exists under Bankruptcy Code Section 362(d) to grant relief from the automatic stay to permit Fierman to (i) commence and prosecute the Discrimination Action through judgment in the Florida courts, or any other court of competent jurisdiction, (ii) execute on any judgment entered in the Discrimination Action to the extent such judgment is covered by the Insurance Policies and (iii) amend his Proof of Claim filed herein to reflect the amount of any judgment entered in the Discrimination Action, less all

amounts paid under the Insurance Policies; and (b) the Court should authorize and direct the Insurers to pay the proceeds of the Insurance Policies to Fierman in an amount and to the extent necessary to satisfy any judgment, fees and costs obtained by Fierman against ATI in the Discrimination Action.

WAIVER OF MEMORANDUM OF LAW

35. This Motion does not raise any novel issues of law and, accordingly, Fierman respectfully requests that the Court waive the requirement contained in Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York that a separate memorandum of law be submitted.

NO PREVIOUS REQUEST

36. No previous request for the relief sought herein has been made to this Court or any other Court.

[SPACE INTENTIONALLY LEFT BLANK]

CONCLUSION

WHEREFORE, Fierman requests that the Court enter an order granting the relief requested herein, and granting such further or different relief as the Court deems just and proper.

Dated: New York, New York
March 11, 2004

REED SMITH LLP
Attorneys for Arthur H. Fierman, Jr.

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VERIFICATION

I, Arthur H. Fierman, Jr., hereby certify as follows:

I have reviewed the within Verified Motion, and Incorporated Memorandum of Law, and all factual assertions made therein are, to the best of my knowledge, true and accurate.

Executed on March 10, 2004

/s/ Arthur H. Fierman, Jr.
Arthur H. Fierman, Jr.

EXHIBIT A

In re: Allegiance Telecom, Inc.

Case Number: 03-13057

YOUR CLAIM IS SCHEDULED AS: UNKNOWN UNSECURED CONTINGENT, DISPUTED, UNLIQUIDATED

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor and Address: Fierman, Arthur 7129 Hollowell Drive Tampa, FL 33634



- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
Check box if you have never received any notices from the bankruptcy court in this case.
Check box if this address differs from the address on the envelope sent to you by the court.

The amounts reflected above constitute your claim as scheduled by the Debtor. If you agree with the amounts set forth herein, and have no other claim against the Debtor, you do not need to file this proof of claim EXCEPT as stated below.
If the amounts shown above are listed as Contingent, Unliquidated or Disputed, a proof of claim must be filed.
If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

Creditor Telephone Number () 813 / 885-2751

CREDITOR TAX I.D. #: 217-04-3354

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR:

Check here if this claim replaces or amends a previously filed claim dated:

1. BASIS FOR CLAIM
Goods sold, Services performed, Money loaned, Personal injury/wrongful death, Taxes, Other (describe briefly), Retiree benefits as defined in 11 U.S.C § 1114(a), Wages, salaries, and compensation (Fill out below)
Your social security number:
Unliquidated Employment Discrimination Unpaid compensation for services performed from: to
Claim. (See Attached EEOC Charge/Affidavit/Notice of Right to Sue) (date) (date)

2. DATE DEBT WAS INCURRED: Approx. Oct 2, 2002 3. IF COURT JUDGMENT, DATE OBTAINED: Unliquidated

4. TOTAL AMOUNT OF CLAIM AS OF PETITION DATE: \$ 425,000.00 (unsecured) \$ (secured) \$ (unsecured priority) \$425,000.00 (total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.
Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. SECURED CLAIM
Check this box if your claim is secured by collateral (including a right of setoff).
Brief description of collateral:
Real Estate, Motor Vehicle, Other
Value of collateral: \$
Amount of arrearage and other charges at time case filed included in secured claim above, if any \$

6. UNSECURED PRIORITY CLAIM
Check this box if you have an unsecured priority claim
Specify the priority of the claim:
Wages, salaries, or commissions (up to \$4,650*), earned within 90 days before filing of the bankruptcy petition or cessation of the Debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3)
Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4)
Up to \$2,100* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6)
Alimony maintenance or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7)
Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)
Other - Specify applicable paragraph of 11 U.S.C. § 507(a)

7. CREDITS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. See Attached.

9. DATE-STAMPED COPY: To receive an acknowledgment of your claim, please enclose a self-addressed stamped envelope and an additional copy of this proof of claim.

The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED) so that it is received on or before 4:00 p.m., October 1, 2003, Eastern Daylight Time.
BY MAIL TO: United States Bankruptcy Court re: Allegiance Telecom, Inc., et al. P.O. Box 95 Bowling Green Station New York, NY 10274
BY HAND OR OVERNIGHT DELIVERY TO: Clerk of the United States Bankruptcy Court re: Allegiance Telecom, Inc., et al. One Bowling Green, 6th Floor New York, NY 10004-11408

THIS SPACE FOR COURT USE ONLY

DATE SIGNED: 11/20/03

SIGN and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any). Both Fierman Arthur Fierman

Penalty for presenting fraudulent claim is a fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 AND 3571

See Other Side For Instructions

EEOC Form 161 (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Arthur Fierman
7129 Hollowell Drive
Tampa, Florida 33634

From: U. S. Equal Employment Opportunity Commission
Tampa Area Office
501 E. Polk Street, Room 1000
Tampa, Florida 33602

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR 61601.7(a))

Charge No.
151-2003-01437

EEOC Representative
B.L. Collins

Telephone No.
(813) 228-2310

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- [] The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
[] Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
[] The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
[] We cannot investigate your charge because it was not filed within the time limit required by law.
[] Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
[] While reasonable efforts were made to locate you, we were not able to do so.
[] You had 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
[] The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
[] Other (briefly state)

-- NOTICE OF SUIT RIGHTS --

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may pursue this matter further by bringing suit in federal or state court against the respondent(s) named in the charge. If you decide to sue, you must sue WITHIN 90 DAYS from your receipt of this Notice. Otherwise your right to sue based on the above-numbered charge will be lost.

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible. (If you file suit, please send a copy of your court complaint to this office.)

On behalf of the Commission

Manuel Zurita, Area Director

9/8/03
(Date Mailed)

Enclosure
Copy of Charge

cc: Allegiance Telecom, Inc. Mr. William J. Cook

CHAPTER 760 OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement completing this form.

AGENCY <input type="checkbox"/> FICL <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 157-2003-0437
---	---------------------------------------

Florida Commission on Human Relations
State or local Agency, if any

and EEOC

NAME (Indicate Mr., Ms., Mrs.) Mr. Arthur H. Fierman	HOME TELEPHONE (Include Area Code) 813 / 885-2751
--	---

STREET ADDRESS 7129 Hollowell Drive	CITY, STATE AND ZIP CODE Tampa, FL 33634	DATE OF BIRTH 2/18/76
---	--	---------------------------------

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME Allegiance Telecom, Inc.	NUMBER OF EMPLOYEES, MEMBERS 300+	TELEPHONE (Include Area Code) 813 / 554-1500
---	---	--

STREET ADDRESS 4300 W. Cypress Street, Ste. 800	CITY, STATE AND ZIP CODE Tampa, Florida 33607	COUNTY Hillsborough
---	---	-------------------------------

NAME	TELEPHONE NUMBER (Include Area Code)
------	--------------------------------------

STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
----------------	--------------------------	--------

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))	DATE DISCRIMINATION TOOK PLACE EARLIEST 10/02/02 LATEST
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)	<input type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

Personal Harm:

On October 2, 2002, my employer discharged me because of my sex. I am a male.

Respondent's Reason for Adverse Action:

My supervisor said that I was being terminated for poor performance.

Statement of Discrimination:

I believe I was discriminated against because of my sex in violation of Title VII and the Florida Civil Rights Act, Chapter 760, Florida Statutes.

RECEIVED
 MARCH 29 PM 1:28
 CIVIL RIGHTS DIVISION
 U.S. DEPARTMENT OF JUSTICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT
Arthur Fierman

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) **4/15/03**

4/15/03
Date

Arthur Fierman
Charging Party (Signature)

M. Susann Staecker
M. Susann Staecker
NOTARY PUBLIC - COMM. NO. 12345



INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed).

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: backpay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/96 to 12/1/96, you should file suit before 7/1/98 -- not 12/1/98 -- in order to recover unpaid wages due for July 1996. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Florida Commission on Human Relations and EEOC
State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) Mr. Arthur H. Fierman HOME TELEPHONE (Include Area Code) 813 / 885-2751

STREET ADDRESS 7129 Hollowell Drive CITY, STATE AND ZIP CODE Tampa, FL 33634 DATE OF BIRTH 2/18/76

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME Allegiance Telecom, Inc. NUMBER OF EMPLOYEES, MEMBERS 300+ TELEPHONE (Include Area Code) 813 / 554-1500

STREET ADDRESS 4300 W. Cypress Street, Ste. 800 CITY, STATE AND ZIP CODE Tampa, Florida 33607 COUNTY Hillsborough

NAME TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))
 RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify)
DATE DISCRIMINATION TOOK PLACE EARLIEST 10/02/02 LATEST
 CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

Personal Harm:

On October 2, 2002, my employer discharged me because of my sex. I am a male.

Respondent's Reason for Adverse Action:

My supervisor said that I was being terminated for poor performance.

Statement of Discrimination:

I believe I was discriminated against because of my sex in violation of Title VII and the Florida Civil Rights Act, Chapter 760, Florida Statutes.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.
NOTARY - (When necessary for State and Local Requirements)
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT
Arthur Fierman
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 4/15/03

4/15/03 Date
Arthur Fierman Charging Party (Signature)

M. Susann Stienecker
February 22, 2006
SIGNED THRU TROY FAIN

AFFIDAVIT OF ARTHUR H. FIERMAN, JR.

1. My name is Arthur H. Fierman, Jr.. I am above the age of 18 and competent to testify. I make this affidavit upon my personal knowledge. I am a male.
2. I was formerly employed by Allegiance Telecom, Inc. as a Sales Manager. I was hired on February 5, 2001, as an Account Executive. I was promoted to Sales Manager on December 26, 2001.
3. In May of 2002, my male supervisor resigned and was replaced by Amy McDonald. Shortly after she was hired, she began to make comments that I believed were discriminating to males. For example, she repeatedly stated that she believed that females were better managers and that the office needed more female employees.
4. As part of my Sales Manager duties I was responsible for hiring new Account Executives. Ms. McDonald instructed me to interview and hire more females.
5. On one occasion, Ms. McDonald printed an article that she had found on the internet that discussed how women made better managers.
6. At the time Ms. McDonald was hired, there were approximately 24 Account Executives. A little more than half of the Account Executives were males.
7. At the time Ms. McDonald became my supervisor, I was one of three Sales Managers she supervised. The other two Sales Managers were females. In approximately August, 2002, Ms. McDonald disbanded one of the sales teams headed by a female Sales Manager. She gave that Sales Manager the opportunity to remain employed with the company as an Account Executive.
8. Beginning in June 2002, Ms. McDonald began to threaten me with termination for

my team's failure to meet the minimum sales quota of 400 phone lines per month. On June 28, 2002, she counseled me in writing stating that I had missed the minimum amount of lines acceptable. At that time, the other two Sales Managers, who were women, had sold fewer phone lines than me. In fact, up to that point, I was the only Sales Manager who had achieved the 400 lines sales goal in 2002. My team sold 401 lines in January and 501 lines in April.

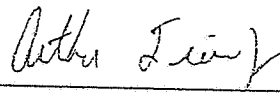
9. On August 2, 2002 and August 12, 2002, I received "final written warnings" for my team's failure to sell 400 lines per month. By the end of August, however, my team had sold 435 lines.

10. The next month, September 2002 my team sold 370 lines and Ms. McDonald fired me at the beginning of October. The other Sales Manager's team had sold only 379 lines that month, but she was not fired. Also, unlike the female who had managed the disbanded sales team, Ms. McDonald did not give me the opportunity to remain employed with the company.

11. After I was terminated, I was replaced with a woman.

12. While I was employed as a Sales Manager with Allegiance Telecom, my sales team sold more total lines than any other team in the office. My sales team was the number one sales team five out of nine months. In other words, I outperformed my female counterparts, yet I was terminated for supposed poor performance and they were not.

FURTHER AFFIANT SAYETH NAUGHT



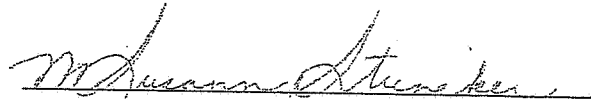
Arthur H. Fierman, Jr.

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared Arthur H. Fierman, Jr. known to me, or who presented driver's license as identification to be the person described in the foregoing instrument, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal this 15th day of April, 2003.



Notary Public,
State of Florida at Large



M. Susann Stienecker
MY COMMISSION # DD085665 EXPIRES
February 22, 2006
BONDED THRU TROY FARM INSURANCE, INC.

Name of Acknowledger Typed, Printed
or Stamped

CHARGE OF DISCRIMINATION

AGENCY FEPA
 EEOC

CHARGE NUMBER
 151-2003-0437

This form is affected by the Privacy Act of 1974; See Privacy Act Statement by completing this form.

Florida Commission on Human Relations
 State or Local Agency, if any

and EEOC

NAME (Indicate Mr., Ms., Mrs.) HOME TELEPHONE (Include Area Code)
 Mr. Arthur H. Fierman 813 / 885-2751

STREET ADDRESS CITY, STATE AND ZIP CODE DATE OF BIRTH
 7129 Hollowell Drive Tampa, FL 33634 2/18/76

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME NUMBER OF EMPLOYEES, MEMBERS TELEPHONE (Include Area Code)
 Allegiance Telecom, Inc. 300+ 813 / 554-1500

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY
 4300 W. Cypress Street, Ste. 800 Tampa, Florida 33607 Hillsborough

NAME TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) DATE DISCRIMINATION TOOK PLACE

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY OTHER (Specify)

EARLIEST LATEST
 10/02/02

CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

Personal Harm:

On October 2, 2002, my employer discharged me because of my sex. I am a male.

Respondent's Reason for Adverse Action:

My supervisor said that I was being terminated for poor performance.

Statement of Discrimination:

I believe I was discriminated against because of my sex in violation of Title VII and the Florida Civil Rights Act, Chapter 760, Florida Statutes.

RECEIVED
 CIVIL RIGHTS DIVISION
 TAMPA OFFICE
 1490 N. RIVER ST.
 TAMPA, FL 33604
 2003 MAR 29 PM 1:28

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

NOTARY - (When necessary for State and Local Requirements)
 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT
Arthur Fierman

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (Day, month, and year) 4/15/03

M. Susann Stiecker
 COMMISSIONER - DC003665 EXPIRES February 22, 2006
 BONDED THRU TROY FAIRBANKS INSURANCE, INC.

4/15/03
 Date *Arthur Fierman*
 Charging Party (Signature)



DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Arthur Fierman
7129 Hollowell Drive
Tampa, Florida 33634

From: U. S. Equal Employment Opportunity Commission
Tampa Area Office
501 E. Polk Street, Room 1000
Tampa, Florida 33602

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No. 151-2003-01437 EEOC Representative B.L. Collins Telephone No. (813) 228-2310

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- [] The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
[] Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
[] The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
[] We cannot investigate your charge because it was not filed within the time limit required by law.
[] Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
[] While reasonable efforts were made to locate you, we were not able to do so.
[] You had 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
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-- NOTICE OF SUIT RIGHTS --
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On behalf of the Commission

Manuel Zurita, Area Director

9/8/03
(Date Mailed)

Enclosure
Copy of Charge

cc: Allegiance Telecom, Inc. Mr. William J. Cook

CHAPTER OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement on the back of this form.

AGENCY
 FEDERAL
 EEOC

CHARGE NUMBER

157-2003-0437

Florida Commission on Human Relations

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Mr. Arthur H. Fierman

HOME TELEPHONE (Include Area Code)

813 / 885-2751

STREET ADDRESS

7129 Hollowell Drive

CITY, STATE AND ZIP CODE

Tampa, FL 33634

DATE OF BIRTH

2/18/76

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Allegiance Telecom, Inc.

NUMBER OF EMPLOYEES, MEMBERS

300+

TELEPHONE (Include Area Code)

813 / 554-1500

STREET ADDRESS

4300 W. Cypress Street, Ste. 800 Tampa, Florida 33607

CITY, STATE AND ZIP CODE

COUNTY

Hillsborough

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

RACE
 COLOR
 SEX
 RELIGION
 NATIONAL ORIGIN
 RETALIATION
 AGE
 DISABILITY
 OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE
 EARLIEST LATEST

10/02/02

CONTINUING ACTION

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I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Arthur Fierman

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 4/15/03

Date 4/15/03

Arthur Fierman
 Charging Party (Signature)

M. Susann Stiebeck

M. Susann Stiebeck

COMMISSION # DD003665 EXPIRES

February 22, 2006

SENDED THRU TROY FAIN INSURANCE INC.



AFFIDAVIT OF ARTHUR H. FIERMAN, JR.

1. My name is Arthur H. Fierman, Jr.. I am above the age of 18 and competent to testify. I make this affidavit upon my personal knowledge. I am a male.
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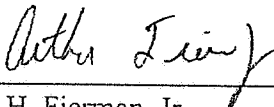
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12. While I was employed as a Sales Manager with Allegiance Telecom, my sales team sold more total lines than any other team in the office. My sales team was the number one sales team five out of nine months. In other words, I outperformed my female counterparts, yet I was terminated for supposed poor performance and they were not.

FURTHER AFFIANT SAYETH NAUGHT



Arthur H. Fierman, Jr.

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority authorized to take oaths and acknowledgments in the State of Florida, personally appeared Arthur H. Fierman, Jr. known to me, or who presented driver's license as identification to be the person described in the foregoing instrument, who, after having first been duly sworn, deposes and says that the above matters contained in this Affidavit are true and correct to the best of his knowledge and belief.

WITNESS my hand and official seal this 15th day of April, 2003.



Notary Public,
State of Florida at Large



M. Susann Stiebecker
MY COMMISSION # DD083665 EXPIRES
February 22, 2006
BONDED THRU TROY FAIR INSURANCE, INC.

Name of Acknowledger Typed, Printed
or Stamped

EXHIBIT B

REED SMITH LLP

A Limited Liability Partnership formed in the State of Delaware
Deborah A. Reperowitz, Esq. (DR-7989)
Charles N. Panzer, Esq. (CP-6271)
599 Lexington Avenue, 29th Floor
New York, NY 10022
Telephone: (212) 521-5400
Facsimile: (212) 521-5450

-and-

One Riverfront Plaza
1st Floor
Newark, NJ 07102
Telephone: (973) 621-3200
Facsimile: (973) 621-3199
E-mail: dreperowitz@reedsmith.com
cpanzer@reedsmith.com

Attorneys for Arthur H. Fierman, Jr.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

ALLEGIANCE TELCOM, INC., *et al.*

Debtors.

Chapter 11

Case No. 03-13057 (RDD)
(Jointly Administered)

ORDER, PURSUANT TO 11 U.S.C. § 362(d), GRANTING MOTION OF ARTHUR J. FIERMAN, JR. SEEKING RELIEF FROM THE AUTOMATIC STAY TO PERMIT THE COMMENCEMENT AND PROSECUTION, THROUGH JUDGMENT, OF AN EMPLOYMENT DISCRIMINATION ACTION AGAINST DEBTOR ALLEGIANCE TELECOM, INC., AND THE ENFORCEMENT OF ANY JUDGMENT ENTERED IN SUCH EMPLOYMENT DISCRIMINATION ACTION TO THE EXTENT SUCH JUDGMENT IS COVERED BY THE DEBTORS' INSURANCE POLICIES

Upon the verified motion dated March 10, 2004 (the “**Motion**”) of Arthur H. Fierman, Jr. (“**Fierman**”), seeking the entry of an order, pursuant to 11 U.S.C. § 362(d), (a) granting Fierman relief from the automatic stay to permit him to (i) commence and prosecute through judgment, in

the state or federal courts of Florida, an employment discrimination action (the “**Discrimination Action**”) against chapter 11 debtor and debtor-in-possession herein, Allegiance Telecom, Inc. (“**ATI**”), (ii) execute on any judgment entered in the Discrimination Action to the extent such judgment is covered by one or more of ATI’s insurance policies (collectively, the “**Insurance Policies**”) and (iii) amend his Proof of Claim filed herein to reflect the amount of any judgment, plus fees, costs and interest, entered in the Discrimination Action, less all amounts paid under the Insurance Policies; and (b) authorizing and directing the insurers under the Insurance Policies to pay the proceeds thereof to Fierman to satisfy any judgment obtained by him against ATI in the Discrimination Action; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334; and it appearing that adequate notice of the Motion was provided; and the Court having reviewed the Verified Motion and determined that the legal and factual bases set forth in the Motion establish just and sufficient cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it hereby is

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Motion is GRANTED in its entirety.
2. Relief from the automatic stay hereby is granted to Fierman to permit Fierman to:
 - (i) commence and prosecute the Discrimination Action against ATI, through judgment, in the state or federal courts of Florida, or in any other court of competent jurisdiction; and
 - (ii) execute on any judgment entered in the Discrimination Action to the extent such judgment is covered by one or more of ATI’s insurance policies.
3. The insurers under the Insurance Policies hereby are authorized and directed to pay the proceeds of the Insurance Policies to Fierman to satisfy any judgment obtained by him against ATI in the Discrimination Action.

4. Fierman hereby is authorized to amend his Proof of Claim filed herein to reflect the amount of any judgment, plus fees, costs and interest, entered in the Discrimination Action, less all amounts paid under the Insurance Policies.

5. Pursuant to Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York, because the legal authority relied upon by Fierman is set forth sufficiently in the Motion, the requirement that Fierman file a memorandum of law in support of the Motion hereby is waived.

Dated: New York, New York
_____, 2004

ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE